

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	Case No. 5:11 CR 594
)	
Plaintiff,)	Judge Dan Aaron Polster
)	
vs.)	<u>OPINION AND ORDER</u>
)	
LINDA SHROCK,)	
)	
Defendants.)	

On September 20, 2012, a jury returned verdicts convicting Defendant Linda Shrock and her 15 co-defendants of numerous federal offenses. (Doc #: 230.) All 16 defendants, including Linda Shrock, were convicted of Count 1 (Conspiracy). (Id.) The jury completed a verdict form attesting that each juror found beyond a reasonable doubt that the objects of the conspiracy were to commit hate crimes and to obstruct justice. (Id.) Each of the defendants was also convicted of one or more substantive hate crime counts and several of the defendants were also convicted of obstruction of justice. (Id.)

On August 27, 2014, the Sixth Circuit reversed the hate crime convictions, holding that the court had given an erroneous jury instruction on motive. *U.S. v. Miller*, — F.3d —, 2014 WL 4211198 (6th Cir. Aug. 27, 2014). On August 29, 2014, Linda Shrock filed a Motion for Release from Incarceration, asking that her personal bond be reinstated pending retrial. (Doc #: 558.) On September 2, 2014, the government filed a Response in Opposition, and on September 2, 2014, Defendant filed a Reply. (Respectively, Doc ##: 559, 560.)

The Court finds that Defendant's Motion is premature. The mandate has not been issued, as the time for the United States to seek rehearing or certiorari has not run. When and if the issue becomes ripe for consideration, the Court will address the United States' argument that Linda Shrock's conspiracy conviction (Count 1) remains intact.

The Court notes, in passing, that the United States is correct that the jury expressly convicted Linda Shrock (and all the other defendants) of conspiracy to commit hate crimes and to obstruct justice. The Sixth Circuit's August 27, 2014 decision overturned the substantive hate crime convictions because of an erroneous jury instruction, but the court expressly noted that none of the three defendants convicted of obstruction of justice (Samuel Mullet, Eli Miller and Lester Mullet) challenged their convictions on those counts. *See Miller*, 2014 WL 4211198, at *3. Defendant correctly observes the sweeping language of the Sixth Circuit's decision that "the erroneous jury instructions require a new trial" (*id.* at *16), but the Sixth Circuit's decision focused on the hate crime convictions that hinged upon the erroneous jury instruction. While the conspiracy conviction of Linda Shrock would by implication be reversed had the only object of that conspiracy been to commit hate crimes, the Sixth Circuit's decision does not talk about the continued validity of the conspiracy conviction given that the conspiracy conviction also encompassed obstruction of justice. The Court will require substantial briefing from the parties on this issue if and when it becomes ripe.

IT IS SO ORDERED.

/s/ Dan A. Polster September 3, 2014
Dan Aaron Polster
United States District Judge